

Applicants: Haller et al.  
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## REMARKS

### I. *Claim Rejections – 35 U.S.C. §103*

Claims 1, 2, 5-8, 10-22, 24-26, 28-30, 32-35, 37-49, 51-53 and 55 are rejected under 35 U.S.C. §103(a) as being unpatentable over Smith et al. (US 5,456,692) in view of Nappholz et al. (US 5,720,770) in further view of Cox et al. (US 5,383,912) and in further view of Nappholz et al. (US 5,690,690).

Claims 3, 4, and 31 are rejected as being unpatentable over Smith in view of Nappholz et al. in further view of Bernard (5,497,339).

Claims 9 and 36 are rejected as being unpatentable over Smith in view of Nappholz et al. in further view of deCoriolis (US 5,342,408).

Claims 23 and 50 are rejected as being unpatentable over Smith in view of Nappholz et al. in further view of Kalman (US3,972,320).

Claims 27 and 54 are rejected as being unpatentable over Smith in view of Nappholz et al. in further view of Kroll (US 5,258,906).

Applicants previously argued that none of the art includes at least the following limitation of claim 1:

a universal communication module comprising means for at least one of updating and reprogramming at least portions of the software loaded in the IMD, the communication module being configured to operate in conjunction with a plurality of different implantable medical devices and being selectively programmable to communicate with, receive data from, and download data to any of various implantable medical devices.

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Further, Applicants argued that none of the art includes at least the following limitation of claim 29:

at least one of a mobile telephone and a PDA, the at least one of the mobile telephone and the PDA further comprising means for at least one of updating and reprogramming at least portions of the software loaded in the IMD, the at least one of the mobile telephone and the PDA being capable of simultaneously receiving information from and relaying information to the IMD, wherein the updating and programming means is a universal device configured to operate in conjunction with a plurality of different implantable medical devices and comprises means for at least one of being selectively programmable to communicate with, receive data from, and download data to any of various implantable medical devices.

Since claims 2-28 and 30-55 depend either directly or indirectly from one of the independent claims, Applicants argued that they too are patentably distinct from the cited and applied art.

The claims specified a universal communications device for updating and reprogramming at least portions of the software loaded in an IMD, which is selectively programmable to communicate with, receive data from, and download data to any of various implantable medical devices. The device in '770 Nappholz identified as repeater/programmer/phone 14 is nowhere indicated or suggested to be a selectively programmable device providing universal operation to communicate with, receive data from, and download data to any of various implantable medical devices. Similarly, the programmer 46 in Smith is nowhere indicated or suggested to be a selectively programmable device providing universal operation to communicate with, receive data from, and download data to any of various implantable medical devices.

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The final office action responds to Applicants arguments by lodging a new basis for the rejection and contending that the alleged novelty of a universal communications module configured to operate in conjunction with a plurality of different implantable medical devices and being selectively programmable to communicate with, receive data from, and download data to any of various implantable medical devices is known from '690 Nappholz. This is allegedly taught, for example, at columns 2. However, the teaching in '690 Nappholz is of a universal programmer for reprogramming various models of only cardiac pacemaker devices, wherein the different models refers to different devices of the same manufacturer (see Table I) which are each operable in a different mode (see Table II).

Claims 1 and 29 have been amended to further specify that the universal communications module is configured to operate in conjunction with a plurality of different commercially available implantable medical devices originating from different manufacturers. Support for this limitation is found at pages 35 and 36 of the application. The '690 Nappholz reference does not disclose or suggest this feature.

Accordingly, Applicants submit that claims 1 and 29, as well as the dependent claims, distinguish over the combination of references cited in the final office action and are patentable over the combination of references.

## **II. CONCLUSION**

Applicants respectfully submit that all presently pending claims are in condition for allowance. Applicants further respectfully request that a notice of allowance be issued in due course so that the claimed invention may pass to timely issuance as U.S. Letters Patent.

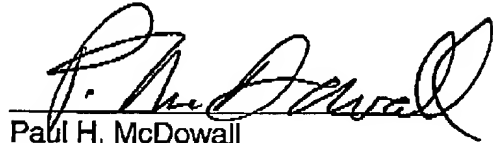
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This Response After Final is submitted for entry and is intended to place the application in condition for allowance without raising any new issues or requiring further search of the subject matter claimed. The Examiner is invited to contact the undersigned with any questions regarding this Response After Final.

Respectfully submitted,

Date:

15 March '06



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